IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
APPEAL NO.247 OF 2007
FROM
CHAMBER SUMMONS NO.80 OF 2007
IN
SUIT NO.2792 OF 2000

1. Dr. Vijay Satbir Singh,
   I.A.S., Vice Chairman &
   Managing Director MSRTC/
   Chairman of the Trust

2. Shri Vijaykumar Yashwant
   Vichare, Financial Adviser
   & Chief Accounts Officer,
   MSRTC/Secretary of the
   Trust

3. Shri Shivajirao D. Sonawane
   Secretary MSRTC

4. Shri P.M. Salvi
   G.M.(P & IR), MSRTC

5. Shri Shivajirao Chavan

6. Shri S.R. Kalmankar

7. Shri Avinash Jahangirdar
   The Maharashtra State
   Transport Corporation
   Gratuity Fund a Trust
   created under the Road
   Transport Corporation
   Act, 1950 and rules framed
   thereunder having its
   office at Maharashtra
   Vahtuk Bhavan,
   Dr. Anandrao Nair Marg,
   Mumbai 400 008, through
   its Board of Trustees at
   present consisting of

8. Dr. Vijay Satbir Singh,
   I.A.S., Vice Chairman &
   Managing Director MSRTC/
   Chairman of the Trust

9. Shri Vijaykumar Yashwant
   Vichare, Financial Adviser
   & Chief Accounts Officer,

MSRTC/Secretary of the
Trust

10. Shri Shivajirao D. Sonawane
Secretary MSRTC

11. Shri M.B. Gajare
Labour Commissioner

12. Shri Hanumantrao Tate

13. Shri Ghanshyam P. Shelar

14. Shri Kishore Kanhare

15. Shri Sukhdeo Waluba Ghuge .... Appellants (Ori.Plaintiffs)

- Versus -

1. UP Co-operative Spinning Mills Federation Ltd., a Co-operative Society registered under the U.P. Co-operative Societies Act, 1965 having its registered office at B-2, Sarvodaya Nagar, Kanpur-208 005. .... Respondent (Ori.Defendant No.1)

2. Deleted

3. The Court Receiver
High Court, Bombay.

4. The Registrar, Handloom & Textiles, Co-operative Societies, U.P. Kanpur, Kabir Bhavan, G.T. Road, Kanpur, U.P.

5. Shri Anurag Srivastava, District Magistrate, Kanpur Nagar, Liquidator of U.P. Spinning Mills Federation Ltd. Having address at 1-C, New Azad Nagar, Indira Nagar Road, Kalyanpur, Kanpur, Uttar Pradesh. .... Respondents

Sarvasri Janak Dwarkadas, Senior Advocate, with N.R. Mody and Ms Deepali Thakore i/b M/s. Rustomji Ginwalla for the Appellants.

Shri A.C. Mahimkar for the Respondents.

Shri N.M. Mungekar, Section Officer from the O/o the Court Receiver present.

AND

APPEAL [LODGING] NO.277 OF 2007
FROM
JUDGES ORDER NO.368 OF 2006
IN
SUIT NO.2792 OF 2000

1. Dr. Vijay Satbir Singh, I.A.S., Vice Chairman & Managing Director MSRTC/ Chairman of the Trust

2. Shri Vijaykumar Yashwant Vichare, Financial Adviser & Chief Accounts Officer, MSRTC/Secretary of the Trust

3. Shri Shivajirao D. Sonawane Secretary MSRTC

4. Shri P.M. Salvi G.M.(P & IR), MSRTC

5. Shri Shivajirao Chavan

6. Shri S.R. Kalmankar

7. Shri Avinash Jahangirdar The Maharashtra State Transport Corporation contributory Provident Fund and contributory Provident Fund A/c No.II created under the Road Transport Corporation Act, 1950 and rules framed thereunder having its office at Maharashtra Vahtuk Bhavan, Dr. Anandrao Nair Marg, Mumbai 400 008, through its Board of Trustees at present consisting of the

Trustees above

8. Dr. Vijay Satbir Singh, I.A.S., Vice Chairman & Managing Director MSRTC/ Chairman of the Trust

9. Shri Vijaykumar Yashwant Vichare, Financial Adviser & Chief Accounts Officer, MSRTC/Secretary of the Trust

10. Shri Shivajirao D. Sonawane Secretary MSRTC

11. Shri M.B. Gajare Labour Commissioner

12. Shri Hanumantrao Tate

13. Shri Ghanshyam P. Shelar

14. Shri Kishore Kansere

15. Shri Sukhdeo Waluba Ghuge

The Maharashtra State Road Transport Corporation Gratuity Fund, a Trust created under the Road Transport Corporation Act, 1950 & rules framed thereunder having its office at Maharashtra Vahatuk Bhavan, Dr. Anandrao Nair Marg, Mumbai-400 008 through its Board of Trustees at present consisting of the Trustees above .... Appellants (Ori.Plaintiffs)

- Versus -

1. UP Co-operative Spinning Mills Federation Ltd., a Co-operative Society registered under the U.P. Co-operative Societies Act, 1965 having its registered office at B-2, Sarvodaya Nagar, Kanpur-208 005. .... Respondent (Ori.Defendant No.1)

2. Deleted

3. Registrar, Handloom

& Textiles Co-operative
Society, Uttar Pradesh,
Kanpur,Kabir Bhavan, G.T.
Road, Kanpur.

4. Shri Anurag Srivastava,
District Magistrate,
Kanpur Nagar, Liquidator
of U.P. Spinning Mills
Federation Ltd.
having address at 1-C,
New Azad Nagar, Indira
Nagar Road, Kalyanpur,
Kanpur, Uttar Pradesh. .... Respondents

Sarvasri Janak Dwarkadas, Senior Advocate,
with N.R. Mody and Ms Deepali Thakore i/b
M/s. Rustomji Ginwalla for the Appellants.

Shri A.C. Mahimkar for the Respondents.

Shri N.M. Mungekar, Section Officer from
the O/o the Court Receiver present.

CORAM: R.M.S. KHANDEPARKAR &
S.R. SATHE, JJ.

DATED: JUNE 21, 2007

ORAL JUDGMENT (Per R.M.S.Khandeparkar, J.):

1. Heard. Admit. The learned Advocate appearing on behalf of the respondents in both the appeals waives service. By consent, heard forthwith.

2. The main controversy in the matter relates to the claim regarding the expenditure alleged to have been incurred by the appellants for the necessary protection of the property in question. It appears that the appellants had produced certain materials before the Court Receiver in that regard based on which the claim

was made. The learned single Judge has held that there is no satisfactory material as regards the expenditure incurred as well as the security provided for the protection of the property. In the circumstances, in our considered opinion, it would be necessary to give proper opportunity to the parties to establish their rival contentions in relation to the security stated to have been provided for the protection of the property as well as the claim regarding the expenditure in respect thereof, including the entitlement for such claim to be satisfied. In this view of the matter, therefore, without going into the merits of the case, we allow the appeals; set aside the impugned orders and remand the matters to the learned single Judge with further direction that the Court Receiver shall enquire into the matter as to what extent the security was necessary for the property, to what extent it was provided and bona fide regarding the claim made by the appellants regarding the requirement and extent of security and thereafter submit a comprehensive report in that regard to the trial Court pursuant to which, upon hearing the parties, the learned single Judge may pass appropriate order in that regard. With these directions, the impugned orders are set aside and the matters are remanded to the learned single Judge. We make it clear it that we have not expressed any opinion on any of the points sought to be raised in the matters except as

stated above. There shall be no order as to costs.

(S.R.Sathe, J.) (R.M.S.Khandeparkar, J.)

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